

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ROGER L. MAXWELL, §  
§  
*Plaintiff*, § NO. 3:05-CV-0402-B  
v. § JURY DEMANDED  
JENKENS & GILCHRIST, P.C., §  
§  
*Defendant*. §

---

**APPENDIX TO PLAINTIFF'S MOTION FOR AN ORDER DIRECTING  
THE RETURN OF CERTAIN DOCUMENTS AND BRIEF IN SUPPORT**

---

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Texas State Bar No. 18294915  
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Texas State Bar No. 24012408  
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Dated July 28, 2005.

Respectfully submitted,

/s/ Raj K. Krishnan

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**ATTORNEYS FOR PLAINTIFF  
ROGER L. MAXWELL**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date the **APPENDIX TO PLAINTIFF'S MOTION FOR AN ORDER DIRECTING THE RETURN OF CERTAIN DOCUMENTS AND BRIEF IN SUPPORT** was electronically filed with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

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---

\_\_\_\_\_  
July 28, 2005  
Date

---

\_\_\_\_\_  
/s/ Raj K. Krishnan  
Raj Krishnan

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

ROGER L. MAXWELL,

***Plaintiff,***

V.

## JENKENS & GILCHRIST, P.C.,

*Defendant.*

**NO. 3:05-CV-0402-B**

## **AFFIDAVIT OF NICHOLAS CREME**

**STATE OF TEXAS**  
**COUNTY OF DALLAS**

BEFORE ME, the undersigned notary, on this day personally appeared NICHOLAS CREME, who being duly sworn by me, upon his oath stated as follows:

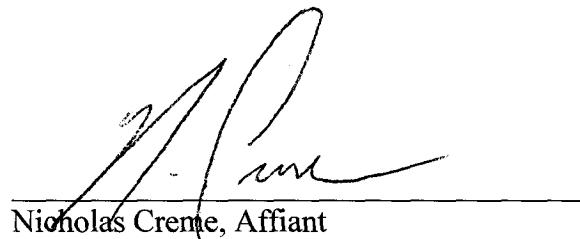
1. My name is Nicholas Creme. I am a Senior Account Manager with Platinum Litigation Solutions (“PLS”). I am over the age of twenty-one, have not been convicted of a crime involving moral turpitude, and am not otherwise disqualified from making this affidavit. The following information, which is within my personal knowledge, is true and correct.
2. PLS was hired by Roger Maxwell to image documents that we retrieved from the offices of Lynn Tillotson & Pinker, L.L.P. (“Lynn Tillotson”). I began retrieving documents from Lynn Tillotson on May 27, 2005.
3. In the course of imaging these documents, PLS’ electronic system generated a manifest (the “gap manifest”) of all Bates numbered pages that were missing from the production, based

on the sequential numbering of the Bates labels.

4. On June 7, 2005, I retrieved one box of documents from paralegal Carolyn Jones at Lynn Tillotson, which were called the "gap documents." I have previously stated that I retrieved this single box from Ms. Jones on June 8, 2005, but I later realized that I in fact retrieved the box on the afternoon of June 7 and PLS began imaging the documents on the morning of June 8.

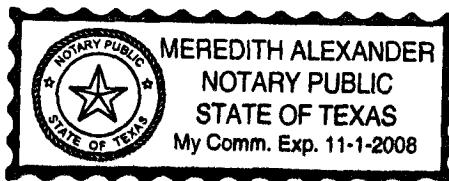
5. Included in the single box that I picked up from Lynn Tillotson on June 7, 2005 were documents bearing Bates Nos. JG 015243 – 015272, JG 015366 – 015459, and JG 015461 – 015465.

Further Affiant sayeth not.



Nicholas Creme, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on July 28<sup>th</sup>, 2005.



Meredith Alexander  
Notary Public, State of Texas  
My Commission Expires: 11/1/08

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**ROGER L. MAXWELL,**

*Plaintiff,*

v.

**JENKENS & GILCHRIST, P.C.,**

*Defendant.*

**NO. 3:05-CV-0402-B**

---

**AFFIDAVIT OF RAJ K. KRISHNAN**

---

**STATE OF TEXAS** §

§

**COUNTY OF DALLAS** §

§

BEFORE ME, the undersigned notary, on this day personally appeared RAJ K. KRISHNAN, who being duly sworn by me, upon his oath stated as follows:

1. My name is Raj K. Krishnan. I am an attorney representing Roger L. Maxwell in this matter. I am over the age of twenty-one, have not been convicted of a crime involving moral turpitude, and am not otherwise disqualified from making this affidavit. The following information, which is within my personal knowledge, is true and correct.
2. On May 25, 2005, several members of my staff and I began to review certain documents at the offices of Lynn Tillotson & Pinker, L.L.P. The documents were the subject of this Court's May 9, 2005 Order Pertaining to Forgent Documents and had been listed on multiple privilege logs produced by Jenkens & Gilchrist. The documents were compared to these logs to determine if all documents listed on the logs were in fact being produced. A preliminary review indicated

that thousands of individual pages as well as entire documents were missing. There were also numerous documents with illegible Bates numbers, due to one number being stamped on top of an existing number. Additionally, several of the descriptions in the logs did not correspond to the Bates numbered documents that were inspected.

3. Based upon this preliminary review, I realized that it would take several weeks to merely document that Jenkens & Gilchrist had not fully complied with the agreed protective order.

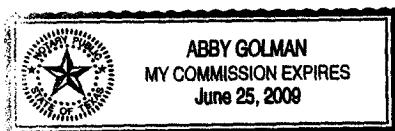
4. Because of the numerous problems with the documents that Jenkens & Gilchrist produced, it has been necessary for four paralegals to invest hundreds of hours to attempt to correlate the documents to these logs.

Further Affiant sayeth not.



Raj K. Krishnan, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on July 28, 2005.



Abby Golman  
Notary Public, State of Texas  
My Commission Expires: 6/25/09

NO. 04-05855-I

<b>JENKENS &amp; GILCHRIST, A PROFESSIONAL CORPORATION and L. STEVEN LESHIN</b>	§	<b>IN THE DISTRICT COURT OF</b>
	§	
	§	
	§	
<b>Plaintiffs and Counter-Defendants,</b>	§	
	§	
	§	
	§	<b>DALLAS COUNTY, TEXAS</b>
<b>v.</b>	§	
	§	
	§	
<b>STUART D. DWORK</b>	§	
	§	
	§	
<b>Defendant and Counter-Plaintiff.</b>	§	<b>162nd JUDICIAL DISTRICT</b>
	§	

---

**ORDER ON MOTION FOR RETURN OF PRIVILEGED DOCUMENTS AND MOTION  
FOR EMERGENCY HEARING AND/OR SHORTENED NOTICE PERIOD**

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Before the Court is Jenkens & Gilchrist's Motion for Return of Privileged Documents and Motion for Emergency Hearing and/or Shortened Notice for Hearing. Having considered the motion, the evidence, the arguments of counsel, and all other matters properly before the Court, the Court is of the opinion that the Motion should be GRANTED.

Accordingly, the Court GRANTS, for good cause shown, the request for an emergency hearing and shortened notice period.

The Court ORDERS that counsel for Defendant Stuart D. Dwork are to return immediately to Jenkens and Gilchrist all copies of the documents bearing Bates numbers JG015243 through JG015272; JG015366 through JG015459; and JG015461 through JG015465 (the "Privileged Documents"), as well as all copies of the Privileged Documents in the possession, custody, or control of counsel, their client, and any person retained or engaged by them in connection with this case.

The Court ORDERS that counsel for Dwork are to delete, purge, and eliminate any and all electronic copies, summaries, and indexes of the Privileged Documents from any computers

or electronic media on which they may be contained, including any computers or electronic media in the possession, custody, or control of counsel, their client, and any persons retained or engaged by them in connection with this case.

The Court ORDERS that counsel for Dwork, their client, and any persons retained or engaged by them in connection with this case are to make no further use of any of the Privileged Documents, whether by reviewing the Privileged Documents, referring to summaries, or other work product or by incorporating the contents of any of them, in whole or in part, in any memorandums, correspondence, work product, court filings, or other documents.

The Court ORDERS counsel for Dwork, Mr. Dwork and Ms. Goldman to provide a written certification under oath and subject to perjury to the Court, within seven days of entry of this Order, that they retain none of the Privileged Documents, and that they have removed or destroyed any reference to or information obtained from the Privileged Documents in any work product or other documents in the possession, custody, or control of counsel, their client, and any persons retained or engaged by them in connection with this case and that they do not know of any other copies, whether in paper or electronic form that exist within the care, custody or control of Dwork or his counsel.

Finally, the Court ORDERS that counsel for Dwork are to pay Jenkens' reasonable and necessary attorney fees incurred in bringing the Motion for Return of Privileged Documents, in the amount of \$                   .

SO ORDERED.

SIGNED the 22 <sup>nd</sup> day of July, 2005.

  
Loraine A. Paggio  
JUDGE PRESIDING

**ORDER ON MOTION FOR RETURN OF PRIVILEGED DOCUMENTS**  
139224/01312-401

Page 2

APPX00006

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ROGER L. MAXWELL,

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Plaintiff,

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v.

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JENKENS &amp; GILCHRIST, P.C.,

§  
§  
§  
§  
§  
§  
§  
§

Defendant

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**

MAY - 9 2005

CLERK, U.S. DISTRICT COURT  
By *[Signature]*  
Deputy

CIVIL ACTION NO. 3:05-CV-042B  
3:05cv 402-B**ORDER PERTAINING TO FORGENT DOCUMENTS**

ON THIS DAY CAME ON TO BE CONSIDERED the motion of nonparty witness Forgent Networks, Inc., for itself and its wholly-owned subsidiary Compression Labs, Inc. (collectively "Forgent"), for an order pertaining to documents Forgent asserts contain "Confidential information," including privileged attorney-client communications, work product and unprivileged client information, all as defined in Texas Rule of Professional Conduct ("DR") 1.05, Tex. R. Civ. P. 192.5 or Texas Rule of Evidence 503. "Forgent Documents" as used in this Order means all documents relating to Forgent and described on any privilege log (supplemental and/or amended) prepared in a case styled and captioned *Jenkens & Gilchrist, A Professional Corporation, and L. Steven Leshin v. Stuart D. Dwork*; Cause No. 04-05855-I, in the 162<sup>nd</sup> Judicial District Court of Dallas County, Texas. The parties are attorneys formerly retained by Forgent in an attorney-client relationship. The Forgent Documents are related in whole or in part to the parties' advising and representing Forgent. The parties have made stipulations and representations of fact on which the Court relies in entering this order. Having considered the stipulations, representations and all proceedings had in this case, the Court

makes the following findings of fact and conclusions of law and enters the following order to resolve these issues presently before the Court:

**FINDINGS OF FACT**

1. Forgent hired Jenkens & Gilchrist, A Professional Corporation ("J&G"), to represent it, *inter alia*, in connection with enforcement or licensing of any one or more of U.S. Patent No. 4,698,672; any foreign counterpart of U.S. Patent No. 4,698,672; U.S. Patent No. 6,181,784; and U.S. Patent No. 6,285,746, which is a continuation of U.S. Patent No. 6,181,784 (the "672 Proceedings").

2. Attorneys L. Steven Leshin, Stuart D. Dwork and Roger L. Maxwell, along with other attorneys and employees of J&G not specifically named in this order, worked on the 672 Proceedings.

3. On or about February 29, 2004, Mr. Dwork left the employ of J&G and on or about June 16, 2004, Mr. Maxwell's status as a shareholder with J&G ceased.

4. On or about October 27, 2004, Forgent terminated its relationship with J&G and Forgent thereafter engaged other counsel to represent it, including in the 672 Proceedings.

5. The parties are not adverse to Forgent in this case. Forgent, a nonparty in this case, has no financial interest in the outcome but it possesses an interest in protecting the Forgent Documents from unauthorized disclosure to third parties.

6. Neither the parties nor their attorneys currently represent any person or entity adverse to Forgent in the 672 Proceedings or in any other matter substantially related to the 672 Proceedings. The parties share a common obligation to Forgent not to disclose Forgent Documents to third parties, except as permitted by DR 1.05, and will conduct this case without unauthorized disclosure to third parties, in the 672 Proceedings and otherwise.

7. Each party is in possession of or has access to some or all Forgent Documents. All parties represent that Forgent Documents have not been disclosed by them or their representatives, except as permitted by DR 1.05, while they were Forgent's attorneys or since each of them became a former attorney of Forgent.

8. Forgent has agreed to permit its attorneys, the parties and their lawyers (all of whom are lawyers and who, together with the members, associates or employees of the lawyers' law firms, are hereinafter referred to as "Lawyers"), to have access to Forgent Documents for assistance with privilege issues and to protect against unauthorized disclosure of Forgent Documents to third parties, in the 672 Proceedings or otherwise.

#### CONCLUSIONS OF LAW

1. The parties and their Lawyers are obligated under the Texas Rules of Professional Conduct, the Texas Rules of Evidence, the Texas Rules of Civil Procedure and common law fiduciary duties not to disclose or use Forgent Documents to the extent such documents constitute "confidential information" as defined in DR 1.05 and except as permitted by DR 1.05.

2. This Order permits access to Forgent Documents only to those persons subject to the attorney-client relationship with Forgent during the creation of the Forgent Documents, or their Lawyers. Absent agreement or further court order, all Forgent Documents are presumed to contain "confidential information" as defined in DR 1.05.

3. This Order is based, *inter alia*, on *In re George*, 28 S.W. 3d 511 (Tex. 2000); *In re Meador*, 968 S.W.2d 346 (Tex. 1998); *Maryland American Gen. Ins. Co. v Blackmon*, 639 S.W.2d 455 (Tex. 1982); *West v. Solito*, 563 S.W. 2d 240 (Tex. 1978); *Ex Parte Hanlon*, 406 S.W.2d 204 (Tex. 1966); *In re Marketing Investors Corp.*, 80 S.W.3d 44 (Tex. App. – Dallas 1998); *Petroleum Wholesale, Inc. v. Marshall*, 751 S.W. 2d 295 (Tex.-App. – Dallas 1988),

*United States v. Richard Roe, Inc. (In re Richard Roe, Inc.),* 168 F. 3d 69 (2d Cir. 1999); *U.S. v. Massachusetts Institute of Technology*, 129 F.3d 681 (1<sup>st</sup> Cir. 1997); the Texas Rules of Civil Procedure; the Texas Rules of Evidence and the Texas Rules of Professional Conduct.

4. To the extent necessary to give full force and effect to this Order, findings of fact may be deemed conclusions of law and conclusions of law may be deemed findings of fact.

Based on the foregoing, it is now hereby

**ORDERED** that

1. Forgent Documents in existence on or before June 16, 2004 (hereinafter the "Covered Documents") shall be made available for inspection within ten (10) days of the date of this Order.

2. The Covered Documents may be reviewed only by parties or Forgent, or their Lawyers. Review shall be conducted at reasonable times, dates and places to be agreed by counsel.

3. Copies only of Covered Documents deemed by the requesting party to be material and essential may be made and removed from their location, at the expense of the requesting party, on condition that the party requesting and receiving copies ensures that the only persons with access are parties, Forgent or their Lawyers.

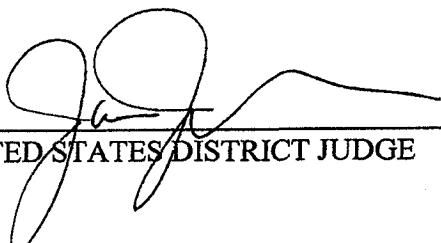
4. Absent written agreement by Forgent, or a court order, the Covered Documents may be used by parties and Lawyers only to prepare, to take, or to defend depositions of parties, former J & G attorneys or employees who were subject to the attorney-client relationship with Forgent, or Forgent. In any permitted use, any portions of deposition transcripts or exhibits which would disclose the contents of Covered Documents shall be

marked "Confidential-Subject to Court Order," and may be disclosed only to parties, Forgent or their Lawyers.

5. Absent written agreement by Forgent, or a court order, no other use or disclosure of Covered Documents shall be permitted. In any motions or pleadings referencing Forgent Documents, including Covered Documents, the parties shall submit the documents themselves in camera and shall submit statements or arguments under seal to the extent necessary not to disclose the content of Forgent Documents and, if and as necessary, shall comply with any applicable rules pertaining to requests to seal the record.

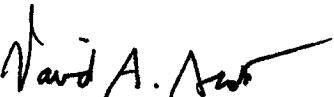
6. The Court retains jurisdiction to enforce this Order or to modify it for good cause shown.

SIGNED this 9<sup>th</sup> day of May, 2005

  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

AGREED AS TO FORM:

JACKSON LEWIS, LLP  
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(214) 520-2008 (Fax)

By:   
David A. Scott

ATTORNEYS FOR JENKENS & GILCHRIST,  
A PROFESSIONAL CORPORATION

Case 3:05-cv-00402 Document 12 Filed 05/09/2005 Page 6 of 6

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(214) 745-5390 (Fax)

By: Stuart Reynolds  
Stuart M. Reynolds, Jr.

ATTORNEYS FOR FORGENT NETWORKS, INC.

Dallas\_1\4154997\1  
38715-1 5/2/2005

ORDER PERTAINING TO FORGENT DOCUMENTS – Page 6

APPX00012

3271

NO. 04-05855-I

JENKENS & GILCHRIST,  
A PROFESSIONAL CORPORATION,  
And L. STEVEN LESHIN

Plaintiffs,

v.

STUART D. DWORK

Defendant and Counterclaimant,

IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

162<sup>ND</sup> JUDICIAL DISTRICT

ORDER PERTAINING TO FORGENT DOCUMENTS

E31

ON THIS DAY CAME ON TO BE CONSIDERED the motion of nonparty witness Forgent Networks, Inc., for itself and its wholly-owned subsidiary Compression Labs, Inc. (collectively "Forgent"), for a protective order. Before the Court for resolution are party requests for production and a subpoena to Forgent for production of documents Forgent asserts contain "Confidential information," including privileged attorney-client communications, work product and unprivileged client information, all as defined in Texas Rule of Professional Conduct ("DR") 1.05, Tex. R. Civ. P. 192.5 or Texas Rule of Evidence 503, and objections and motions for protection with respect thereto. "Forgent Documents" as used in this Order means all documents relating to Forgent and described on any privilege log (supplemental and/or amended) prepared in this case. The parties are attorneys formerly retained by Forgent in an attorney-client relationship. The Forgent Documents are related in whole or in part to the parties' advising and representing Forgent. The parties have presented evidence to the Court and have made stipulations and representations of fact on which the Court relies in entering this order. Having considered the evidence, stipulations, representations and all proceedings

had in this case, the Court makes the following findings of fact and conclusions of law and enters the following order to resolve these issues presently before the Court:

**FINDINGS OF FACT**

1. Forgent hired Jenkens & Gilchrist, A Professional Corporation ("J&G"), to represent it, *inter alia*, in connection with enforcement or licensing of any one or more of U.S. Patent No. 4,698,672; any foreign counterpart of U.S. Patent No. 4,698,672; U.S. Patent No. 6,181,784; and U.S. Patent No. 6,285,746, which is a continuation of U.S. Patent No. 6,181,784.(the "672 Proceedings").
2. Attorneys L. Steven Leshin, Stuart D. Dwork and Roger L. Maxwell, along with other attorneys and employees of J&G not specifically named in this order, worked on the 672 Proceedings.
3. On or about February 29, 2004, Mr. Dwork left the employ of J&G and on or about June 16, 2004, Mr. Maxwell's status as a shareholder with J&G ceased.
4. On or about October 27, 2004, Forgent terminated its relationship with J&G and Forgent thereafter engaged other counsel to represent it, including in the 672 Proceedings.
5. The parties are not adverse to Forgent in this case. Forgent, a nonparty in this case, has no financial interest in the outcome but it possesses an interest in protecting the Forgent Documents from unauthorized disclosure to third parties.
6. Neither the parties nor their attorneys currently represent any person or entity adverse to Forgent in the 672 Proceedings or in any other matter substantially related to the 672 Proceedings. The parties share a common obligation to Forgent not to disclose Forgent Documents to third parties, except as permitted by DR 1.05, and will conduct this case without unauthorized disclosure to third parties, in the 672 Proceedings and otherwise.

7. Each party is in possession of or has access to some or all Forgent Documents. All parties represent that Forgent Documents have not been disclosed by them or their representatives, except as permitted by DR 1.05, while they were Forgent's attorneys or since each of them became a former attorney of Forgent.

8. Forgent has agreed to permit its attorneys, the parties and their lawyers (all of whom are lawyers and who, together with the members, associates or employees of the lawyers' law firms, are hereinafter referred to as "Lawyers"), to have access to Forgent Documents for assistance with privilege issues and to protect against unauthorized disclosure of Forgent Documents to third parties, in the 672 Proceedings or otherwise.

#### CONCLUSIONS OF LAW

1. The parties and their Lawyers are obligated under the Texas Rules of Professional Conduct, the Texas Rules of Evidence, the Texas Rules of Civil Procedure and common law fiduciary duties not to disclose or use Forgent Documents to the extent such documents constitute "confidential information" as defined in DR 1.05 and except as permitted by DR 1.05.

2. This Order permits access to Forgent Documents only to those persons subject to the attorney-client relationship with Forgent during the creation of the Forgent Documents, or their Lawyers. Absent agreement or further court order, all Forgent Documents are presumed to contain "confidential information" as defined in DR 1.05.

3. This Order is based, *inter alia*, on *In re George*, 28 S.W. 3d 511 (Tex. 2000); *In re Meador*, 968 S.W.2d 346 (Tex. 1998); *Maryland American Gen. Ins. Co. v Blackmon*, 639 S.W.2d 455 (Tex. 1982); *West v. Solito*, 563 S.W. 2d 240 (Tex. 1978); *Ex Parte Hanlon*, 406 S.W.2d 204 (Tex. 1966); *In re Marketing Investors Corp.*, 80 S.W.3d 44 (Tex. App. – Dallas 1998); *Petroleum Wholesale, Inc. v. Marshall*, 751 S.W. 2d 295 (Tex.-App. – Dallas 1988),

United States v. Richard Roe, Inc. (In re Richard Roe, Inc.), 168 F. 3d 69 (2d Cir. 1999); U.S. v. Massachusetts Institute of Technology, 129 F.3d 681 (1<sup>st</sup> Cir. 1997); the Texas Rules of Civil Procedure; the Texas Rules of Evidence and the Texas Rules of Professional Conduct.

4. To the extent necessary to give full force and effect to this Order, findings of fact may be deemed conclusions of law and conclusions of law may be deemed findings of fact.

Based on the foregoing, it is now hereby

**ORDERED** that

1. Forgent Documents in existence on or before June 16, 2004 (hereinafter the "Covered Documents") shall be made available for inspection within ten (10) days of the date of this Order.

2. The Covered Documents may be reviewed only by parties or Forgent, or their Lawyers. Review shall be conducted at reasonable times, dates and places to be agreed by counsel. No disclosure may be made to persons not subject to this Order.

3. Copies only of Covered Documents deemed by the requesting party to be material and essential may be made and removed from their location, at the expense of the requesting party, on condition that the party requesting and receiving copies ensures that the only persons with access are parties, Forgent or their Lawyers.

4. Absent written agreement by Forgent, or a court order, the Covered Documents may be used by parties and Lawyers only to prepare, to take, or to defend depositions of parties, former J & G attorneys or employees who were subject to the attorney-client relationship with Forgent, or Forgent. In any permitted use, any portions of deposition transcripts or exhibits which would disclose the contents of Covered Documents shall be

marked "Confidential-Subject to Court Order," and may be disclosed only to parties, Forgent or their Lawyers.

5. Absent written agreement by Forgent, or a court order, no other use or disclosure of Covered Documents shall be permitted. In any motions or pleadings referencing Forgent Documents, including Covered Documents, the parties shall submit the documents themselves in camera and shall submit statements or arguments under seal to the extent necessary not to disclose the content of Forgent Documents and, if and as necessary, shall comply with Tex. R. Civ. P. 76a.

6. The previous Protective Order signed October 8, 2004 continues to govern proceedings in the case to the extent consistent with this Order. In the event of any conflict, this Order shall control.

7. The Court retains jurisdiction to enforce this Order or to modify it for good cause shown.

SIGNED this 20<sup>th</sup> day of May 2005

  
JUDGE PRESIDING

AGREED AS TO FORM:

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Dallas, Texas 75201  
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(214) 981-3839 (Fax)

By:   
Richard A. Smith

ATTORNEYS FOR JENKENS & GILCHRIST,  
A PROFESSIONAL CORPORATION

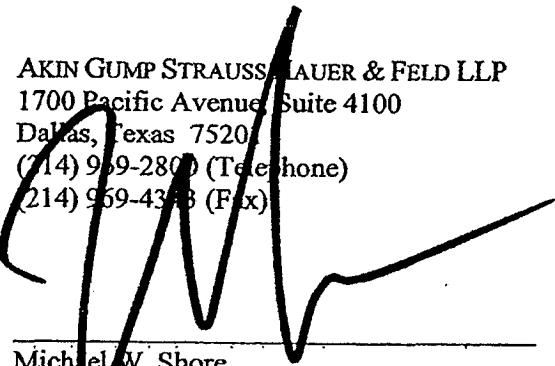
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By:

  
Will S. Snyder

ATTORNEYS FOR L. STEVEN LESHIN

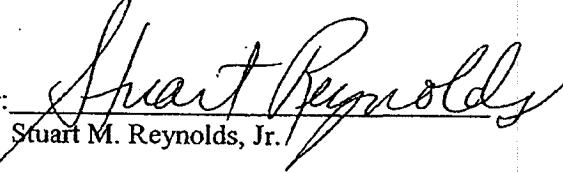
AKIN GUMP STRAUSS LAUER & FELD LLP  
1700 Pacific Avenue, Suite 4100  
Dallas, Texas 75201  
(214) 969-2800 (Telephone)  
(214) 969-4343 (Fax)

  
Michael W. Shore

ATTORNEYS FOR STUART D. DWORK

WINSTEAD SECHREST & MINICK P.C.  
5400 Renaissance Tower  
1201 Elm Street, Suite 5400  
Dallas, Texas 75270  
(214) 745-5400 (Telephone)  
(214) 745-5390 (Fax)

By:

  
Stuart M. Reynolds, Jr.

ATTORNEYS FOR FORGENT NETWORKS, INC.

Dallas, 141129772  
38715-1 5/2/2005

ORDER PERTAINING TO FORGENT DOCUMENTS - Page 6

**AKIN GUMP  
STRAUSS HAUER & FELD LLP**

Attorneys at Law

**RAJ KRISHNAN**  
214.969.2843  
rkrishnan@akingump.com

May 18, 2005

VIA FACSIMILE

David A. Scott, Esq.  
Jackson Lewis, LLP  
3811 Turtle Creek, Suite 500  
Dallas, Texas 75219  
(214) 520-2008 (fax)

Re: *Roger L. Maxwell v. Jenkens & Gilchrist, P.C.*, No. 3:05 CV 402-B (N.D. Tex.)

Dear David:

As you know, on May 9, 2005, the Court in the referenced case ordered that "Forgent Documents in existence on or before June 16, 2004 shall be made available for inspection within ten (10) days of the date of this Order." As defined by the Court's Order, "Forgent Documents" "means all documents relating to Forgent and described on any privilege log (supplemental and/or amended) prepared in a case styled and captioned *Jenkens & Gilchrist, A Professional Corporation, and L. Steven Leshin v. Stuart D. Dwork*; Cause No. 04-05855-I, in the 162nd Judicial District Court of Dallas County, Texas." As tomorrow is the end of the Court's deadline, please inform me of a time this week that we can begin inspection of the documents.

Sincerely,



Raj K. Krishnan

Enclosure

cc: Michael W. Shore  
Stuart M. Reynolds



<p><b>Jackson Lewis LLP</b> <b>3811 Turtle Creek Boulevard</b> <b>Suite 500</b> <b>Dallas, Texas 75219</b> <b>Tel 214 520-2400</b> <b>Fax 214 520-2008</b> <b><a href="http://www.jacksonlewis.com">www.jacksonlewis.com</a></b></p>	<p><b>ATLANTA, GA</b> <b>BOSTON, MA</b> <b>CHICAGO, IL</b> <b>DALLAS, TX</b> <b>GREENVILLE, SC</b> <b>HARTFORD, CT</b> <b>LONG ISLAND, NY</b></p>	<p><b>LOS ANGELES, CA</b> <b>MIAMI, FL</b> <b>MINNEAPOLIS, MN</b> <b>MORRISTOWN, NJ</b> <b>NEW YORK, NY</b> <b>ORLANDO, FL</b> <b>PITTSBURGH, PA</b></p>
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May 19, 2005

**Via Facsimile:**

Raj K. Krishnan

Akin Gump Strauss Hauer & Feld  
1700 Pacific Avenue  
Suite 4100  
Dallas, Texas 75201

Re: *Roger L. Maxwell v. Jenkens & Gilchrist, P.C.*  
United States District Court,  
Northern District of Texas

Dear Mr. Krishnan:

We received your May 18, 2005 letter regarding inspection of Forgent documents. Please contact Richard Smith with the Lynn Tillotson firm to arrange inspection of those documents.

Sincerely,

JACKSON LEWIS LLP

A handwritten signature in black ink that reads 'David A. Scott'.

David A. Scott

DAS:blk

cc:

**Via Facsimile**

Richard Smith, Esq.  
Stuart Reynolds, Esq.

H:\J\Jenkens & Gilchrist\78180 - Maxwell\Corr\Krishnan 050519 DAS.doc



Jackson Lewis LLP 3811 Turtle Creek Boulevard Suite 500 Dallas, Texas 75219 Tel 214 520-2400 Fax 214 520-2008 <a href="http://www.jacksonlewis.com">www.jacksonlewis.com</a>	ATLANTA, GA BOSTON, MA CHICAGO, IL DALLAS, TX GREENVILLE, SC HARTFORD, CT LONG ISLAND, NY	LOS ANGELES, CA MIAMI, FL MINNEAPOLIS, MN MORRISTOWN, NJ NEW YORK, NY ORLANDO, FL PITTSBURGH, PA	SACRAMENTO, CA SAN FRANCISCO, CA SEATTLE, WA STAMFORD, CT WASHINGTON, DC WHITE PLAINS, NY
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EMAIL ADDRESS: SCOTTD@JACKSONLEWIS.COM

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# FAX

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**To:** Raj Krishnan  
**Company:** Akin Gump Strauss Hauer & Feld, LLP  
**Fax:** 214-969-4343 **Tel #:**  
**From:** David A. Scott  
**Sender:** Brandy Kyle  
**Subject:** Maxwell vs. Jenkens & Gilchrist, P.C.  
**Date:** March 19, 2005  
**Client/Matter #:** 78180  
**Pages:** 2  
**Original:**  Will Follow  X  Will Not Follow

**MESSAGE:**

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Please contact Brandy Kyle if there are any problems with this transmission.

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**LYNN TILLOTSON & PINKER, L.L.P.**

ATTORNEYS AND COUNSELORS

Richard A. Smith  
Direct Dial (214) 981-3824  
rsmith@lynnp.com

750 NORTH ST. PAUL STREET  
SUITE 1400  
DALLAS, TEXAS 75201

Telephone: (214) 981-3800  
Telecopier: (214) 981-3839

May 24, 2005

**VIA FACSIMILE**

Raj K. Krishnan  
AKIN, GUMP, STRAUSS, HAUBER & FELD  
1700 Pacific Avenue, Suite 4100  
Dallas, Texas 75201-4675

Re: *Jenkens & Gilchrist, P.C. and L. Steven Leshin v.  
Stewart D. Dwork and Robert Maxwell*  
Cause No. 04-05855-I; 162<sup>nd</sup> Judicial District, Dallas County, Texas

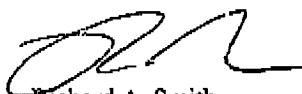
Dear Raj:

We have consulted with counsel for Forgent and our client regarding your request to copy all of the Forgent-related documents on Jenkens & Gilchrist's privilege logs. We will agree to allow the removal and copying of these documents. We will arrange for their copying and delivery to your office by the service of your choice, at your expense. Please let me or our paralegal, Carol Jones, know which copying service you prefer to use.

Please be aware that, as Forgent's protective order only authorized your copying and removal of documents that you deemed material and essential to your case, we had not anticipated your demand to copy all of the Forgent-related documents. Thus, many of these documents were not labeled "Confidential" pursuant to the parties' own protective order. Additional time will be needed to accomplish that process. Those documents that are already marked "Confidential" can be sent out for copying as soon as you tell us which service you prefer to use.

If you have any questions or comments, please do not hesitate to call me.

Sincerely,

  
Richard A. Smith

RAS/cj

cc: **VIA FACSIMILE**  
Michael Shore  
Stuart Reynolds  
Will S. Snyder  
David Scott

## LYNN TILLOTSON & PINKER, L.L.P.

ATTORNEYS AND COUNSELORS

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### TELECOPIER TRANSMISSION SHEET

Date: 5/24/2005

To: Raj K. Krishnan ..... (214) 969-4343  
Will S. Snyder ..... (214) 939-8787  
Michael Shore ..... (214) 743-4179  
Stuart M. Reynolds, Jr. ..... (214) 745-5309  
David Scott ..... (214) 520-2008

From: Richard A. Smith

Client No.: 01312-401

TOTAL NUMBER OF PAGES, INCLUDING COVER SHEET:

2

#### SPECIAL INSTRUCTIONS/MESSAGE:

Please see the attached.

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**AKIN GUMP  
STRAUSS HAUER & FELD LLP**

Attorneys at Law

**Raj Krishnan**  
(214) 969-2843/Fax: (214) 969-4343  
rkrishnan@akingump.com

June 3, 2005

VIA FACSIMILE

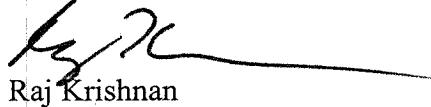
Richard A. Smith, Esq.  
Lynn Tillotson & Pinker, LLP  
750 North St. Paul Street, Suite 1400  
Dallas, TX 75201

Re: *Jenkens & Gilchrist, P.C. and L. Steven Leshin v. Stuart D. Dwork and Roger L. Maxwell*  
(Cause No. 04-05855-I, in the 162nd District Court, Dallas County, TX)

Dear Richard:

Attached is a list of the missing pages from the eight boxes of documents that we retrieved from your office on May 26, which were Bates labeled JG000001 to JG015213. As you can see, there are a total of 2,176 missing pages. Please provide me with a time next week that you can make the missing pages available so that I can arrange for the copy service to pick them up.

Sincerely,



Raj Krishnan

RK/ajg  
attach.  
Doc# 5742628

cc:     Stuart M. Reynolds  
          William S. Snyder  
          Michael W. Shore